

STATE OF WISCONSIN
Department of Industry, Labor and Human Relations

In the Matter of the Request
for Hearing relating to the
PECFA claim of:

Donald D. Tilot, President
Tilot Oil Company, Inc.
Claim #54302-1269-20
McDonald Property, 2020 Angie Ave., Green Bay

This is an appeal of a decision of the DILHR Division of Safety and Buildings which denied a claim for reimbursement under §101.143, Stats., the Petroleum Environmental Cleanup Fund Act (PECFA).

The Division denied a reimbursement claim under §101.143, Stats., in the amount of \$15,451.04, on the ground that this petroleum cleanup was not within the scope of the statute and ch. ILHR 47, Wis. Adm. Code.

In lieu of a hearing, the parties have agreed that a decision may be issued on the basis of the department's record. I conclude that the reimbursement denial was correct.

FINDINGS OF FACT

1. The petroleum cleanup involved in this claim took place at the McDonald property located at 2020 Angie Avenue in Green Bay. The initial letter of April 4, 1991, from the Wisconsin Department of Natural Resources to the Tilot Oil Co. stated the assumption that one of the Tilot transport vehicles was overfilled, which caused the spill of #2 diesel fuel.

2. The remediation report provided by Tilot's consultant on January 17, 1992, states that an inspection of the property identified a slight leak in the transport vehicle's dispensing equipment, but also states that "it is not clear whether the petroleum release is specifically the result of leaky dispensing equipment or the result of an overfill, or perhaps a combination of both."

3. The equipment identified as a "transport vehicle" by the DNR and the consultant was a tank mounted on the frame of an old truck that was not licensed or operated as a motor vehicle. It had been towed to the site more than a year before the petroleum spill and was removed shortly after the spill was discovered.

4. The tank had a capacity of 1500 gallons. It was not registered with DILHR as an aboveground storage system.

CONCLUSIONS OF LAW

1. Tilot has not documented that the source of the discharge is from the petroleum product storage system, which is a requirement for reimbursement eligibility (§101.143(3)(a)1, Stats.).

2. Tilot did not register the petroleum product storage system with DILHR,, which is also a requirement for reimbursement eligibility (§101.143(3)(a)4, Stats.).

OPINION

The Tilot Oil Co. has argued that the tank involved should be treated as an aboveground storage system rather than a transport-vehicle. I have done so in deciding this appeal. However, the lack of documentation as to the source of the discharge and the lack of registration still require the denial of this reimbursement claim.

ORDER

For these reasons, the previous decision of the Division of Safety and Buildings in this matter is affirmed.

Dated this 6th day of December, 1993.

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